IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FELLOWES, INC.,

Plaintiff,

vs.

AURORA CORP. OF AMERICA,

and,

AURORA OFFICE EQUIPMENT, LTD.

Defendants.

Civil Action No.: 07 C 7237
District Judge: Charles P. Kocoras
Magistrate Judge: Arlander Keys

AURORA'S PRELIMINARY INVALIDITY CONTENTIONS

Defendants AURORA CORPORATION OF AMERICA and AURORA OFFICE EQUIPMENT, LTD. ("Aurora") submit the following Preliminary Invalidity Contentions for U.S. Patents Numbers 7,311,276 (the '276 patent), 7,040,559 (the '559 patent), and 7,344,096 (the '096 patent) (collectively referred to as the patents-in-suit):

Aurora submits these contentions in the form that such disclosures would be submitted under the Patent Local Rules of the United States District Court for the Northern District of California, in particular, Patent Local Rules 3-3 and 3-4. Aurora notes, however, that, because of this court's direction that Fellowes' Preliminary Infringement Contentions (which would be submitted under Rules 3-1 and 3-2) and Aurora's Preliminary Invalidity Contentions be submitted simultaneously, Aurora has been forced to prepare these contentions without the disclosures and the time period provided for under the Northern District of California's Patent Local Rules. Specifically, if those rules were being followed, Fellowes would have been required to provide full infringement disclosures (including a claim chart), the file history for each asserted patent as documents establishing the date of conception and the date of reduction

to practice, as well as documents showing the first offer for sale. Fellowes would also have been required to provide full file histories for each patent including all cited prior art.

Other than interrogatory responses received a week ago which only summarily noted which claims Fellowes was claiming were infringed, Fellowes has provided none of this.

Aurora would then have had 45 days to prepare its invalidity responses.

Here, Aurora has had to piece together what it believes Fellowes is asserting as to the claims for each patent in this case from discovery responses. Each such response refers to the claims as "examples" of asserted claims or "at least claims" being asserted. Moreover, Aurora has had to obtain its own copy of the file histories of the asserted patents, as well as the cited prior art. Most importantly, Aurora has only had a week's notice of which claims Fellowes is even asserting. Because Aurora is operating at a substantial disadvantage in comparison to its position under the California Northern District Patent Local Rules, Aurora submits this document as preliminary infringement contentions and reserves the right to amend, supplement, modify, and/or change these contentions at a later date. For convenience, however, Aurora provides these disclosures in the form they would be submitted under the California Northern District's Patent Local Rules and citations to "L.R. 3-3" and "L.R. 3-4," for example, should be understood in that context and not as a representation that the California Northern District Patent Local Rules are applicable to this action or that Aurora is bound by their requirements.

Aurora makes these invalidity contentions based upon its current knowledge, its understanding of the proper construction of the asserted claims of the patents-in-suit, its current understanding of Fellowes' assertions of claim construction, and Fellowes' assertions of infringement. Aurora reserves the right to amend, supplement, modify and/or change these contentions in response to: (1) Fellowes' proffered claim constructions; (2) the Court's construction of the asserted claims; (3) any further revision, clarification, or expansion of Fellowes' infringement theories; (4) any change in the law during the course of this action; and (5) identification/awareness of additional facts relating to the prior art and/or new prior art. Discovery has only recently commenced in this action. Aurora anticipates the discovery of facts

and documents relevant to its invalidity contentions pursuant to third-party discovery which has yet to take place.

Aurora also reserves the right to amend, supplement, modify and/or change these contentions in response to expert analysis and/or testimony as well as in response to any new information, facts or theories relating to the validity of the claims of the patents-in-suit.

Aurora is not filing with the Court the actual prior art references cited herein, but is providing them (in electronic format, on a CD) to Fellowes' counsel. Aurora's counsel will bring a CD containing such references to the September 4, 2008 status conference if the court wishes to have a copy.

I. THE '276 PATENT

A. Patent L.R. 3-3(a) The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher.

Pursuant to Patent L.R. 3-3(a), Aurora identifies the following prior art references that anticipate and/or render obvious the asserted claims of the '276 patent.

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B. L. R.3-3(b); Whether each item of prior art anticipates each asserted claim or renders it obvious as to the '276 patent. If a combination of items of prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified.

Pursuant to L. R.3-3(b), Aurora identifies each item of anticipatory prior art as to each asserted claim. Aurora takes a broad reading of the scope of the claim limitations only for

purposes of this submittal and does not waive, disclaim, or exclude a narrower construction of the terms in the future. Also, Aurora identifies each item of obviousness prior art and any combination of prior art references that would render a claim obvious as to each such claim and the motivation to combine such references.

Aurora's application of L. R. 3-3(b) is in light of the recent Supreme Court decision in the landmark obviousness case of KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1742 (U.S. 2007) ("KSR") and subsequent Federal Circuit rulings.

KSR reaffirmed the obviousness investigation for not only the combination of prior art patents and printed publications, but also the general precepts of the obviousness inquiry. No longer is a rigid approach of the teaching, suggestion, or motivation to combine test the exclusive standard for sustaining obviousness as it relates to the combination of multiple prior art references.

Obviousness is determined from the perspective of a person of ordinary skill in the art at the time of the invention. Such a person is deemed to have a working knowledge of the field. This would extend to prior art patents as identified in these infringement contentions.

Such a person would understand the simplicity and desirability of including a proximity sensor with a paper shredder.

A person of ordinary skill in the art is a person of ordinary creativity, not an automaton, and would see the benefits of increasing the safety of a product. This person would also recognize the design incentives and market driven forces associated with improving the safety of a paper shredder

A person of such skill would also be familiar with proximity sensors such as capacitive sensors.

1. Anticipatory prior art as to the '276 patent.

The following table identifies patents each of which anticipates every limitation, either expressly or inherently, of claims 1, 2, 5-7, 12-14, 22-24, 27-28, 31-34, 37-38, 41-44, 47-

48, 51-54, 57-58, 61-64, 67-70, 73-76, 79-81, 84-85, 88-90, 93-94, 97-99, 102-103, 106-108, and 111-112of the ‘276 patent:

JP 10-048344	JP 57-76734			

Aurora reserves the right to supplement and amend these contentions based on further investigation, construction of the claims by the Court, and modification of Fellowes’ contentions.

2. References that render the claims of the ‘276 patent obvious.

The following table identifies patents the combination of which renders claims 1, 2, 5-7, 12-14, 22-24, 27-28, 31-34, 37-38, 41-44, 47-48, 51-54, 57-58, 61-64, 67-70, 73-76, 79-81, 84-85, 88-90, 93-94, 97-99, 102-103, 106-108, and 111-112 of the ‘276 patent obvious:

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US 3,947,734	US 4,117,752	US 4,162,042	US 4,260,114
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US 4,683,381	US 4,753,323	US 5,081,406	US 5,166,679
US 5,186,398	US 5,318,229	US 5,345,138	US 5,397,890
US 5,436,613	US 5,494,229	US 5,621,290	US 5,667,152
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US 6,116,528	US 6,265,682	US 6,376,939	US 6,418,004
US 6,501,198	US 6,536,536	US 6,655,943	US 6,676,460
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Any of the patents identified supra that anticipate claim 1 of the '276 patent provide a roadmap as to the elements a person of skill in the art would have known to use in developing the invention of a paper shredder having a proximity sensor. Such anticipating patents also provide the motivation to combine the elements identified infra as to any patents containing such elements. Motivation is also identified as explained in the KSR decision.

Each of the dependent claims of the '276 patent incorporate nothing more than elements known in the prior art performing their established function to achieve a predictable result. Under KSR such a combination of elements is obvious.

Claim 1 is obvious for, at least, the combination of United States Patent No. 5,988,542 (issued November 23, 1999) to Henreckson ("Henreckson '542 patent"), United States Patent No. 5,897,065 (issued April 27, 1999), and Japanese Patent Publication 2000-346288 (published December 15, 2000) to Shigeo.

The Henreckson '542 patent is a basic patent covering document shredding devices. The Schwelling '065 patent describes a removable collecting container for paper shredders, and The Shigeo '288 publication describes a capacitive two electrode proximity safety sensor for use with machinery.

The prior art was replete with instances of proximity sensors used to make potentially dangerous equipment safer. The implementation of a proximity sensor known in the prior art to a paper shredder is merely applying an element according to its known function to potentially dangerous device – a paper shredder. This is obvious in light of KSR.

Claims 2, 61, 62, 63, 64, 67, 68, 69, 70, 73, 74, 75, and 76 all deal with the limitation of disabling a motor due to presence of a person or animal. Disabling a motor in such a fashion was well known in the prior art as evidence by , at least, US3785230, US6044632, US6922153, US2004/0181951, WO09637350, JP05280243,Collision Avoidance, Sensor Enables Nonstop, DE3819285, US6113017, Safety Mats, Tablesaw Blade, US2003/0202851, SawStop Finger, EP1442834, JP10-089592, US3111800, US4162042, US4683381, US2003/0090224, Sensor Evaluation, WO9116569, Designing a Safe, GB1132708, Guard Interlocking, JP09-075763, US4518958, US4753323, US5621290, US2004/0017294, WO9637350, Industrial Guarding, JP10-048344, OSHA Hazard, US4117752, US5081406, US5921367, Qprox, Theory and Application, Woodweb, US2002/0017183, US5436613, US6724324, JP57-76734, US6116528, US6376936, US3785230, US6044632, US6922153, US2004/0181951, WO09637350, JP05280243, Collision Avoidance, Photoelectric Sensors, Sensor Enables Nonstop, DE3819285, US6113017, Safety Mats, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, JP10-089592, US3111800, US4162042, US4683381, US2003/0090224, Sensor Evaluation, WO9116569, Designing a Safe, GB1132708, Guard Interlocking, JP09-075763, US4518958, and US4753323.

The limitation of circuitry to sense state of the electro-conductive sensor element appears in claims 6, 31, 32, 33, 34, 37, 38, 51, 52, 53, 54, 57, 58, 88, 89, 90, 93, and 94. This was also well known in the art as evidence by, at least, US4323829, US3785230, US6922153, US2004/0181951, WO09637350, JP05280243, JP07157012, Collision Avoidance, DE3819285, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, US3111800, US4162042, US5318229, US2003/0090224, WO9116569, A Capcitance Based, Capacitive Detection, Designing a Safe, GB1132708, Guard Interlocking, JP09-075763, JP2001-

349139, US4518958, US4753323, US5621290, WO9637350, GB2199962, JP10-048344, OSHA Hazard, US4117752, US5081406, US5921367, Qprox, Theory and Application, US2002/0017183, US5436613, US6724324, US2004/0008122, JP57-76734, US6376936, US4323829, US3785230, US6922153, US2004/0181951, WO09637350, JP05280243, JP07157012, Collision Avoidance, DE3819285, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, US3111800, US4162042, US5318229, US2003/0090224, WO9116569, A Capcitance Based, Capacitive Detection, Designing a Safe, GB1132708, Guard Interlocking, JP09-075763, JP2001-349139, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claims 41, 42, 43, 44, 47, and 48 all include the limitation of the sensor not requiring contact. This limitation was well known in the prior art as embodied by, at least, US3785230, US6044632, US6922153, US2004/0181951, WO09637350, JP05280243, JP07157012, Collision Avoidance, Photoelectric Sensors, DE3819285, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, JP10-089592, US3111800, US4162042, US4683381, US5318229, US2003/0090224, Sensor Evaluation, WO9116569, A Capcitance Based, Capacitive Detection, Designing a Safe, GB1132708, Guard Interlocking, JP2001-349139, US4518958, US4753323, US5621290, WO9637350, GB2199962, Industrial Guarding, JP10-048344, OSHA Hazard, US5081406, US5921367, Qprox, Theory and Application, Woodweb, US2002/0017183, US5436613, US6724324, US2004/0008122, JP57-76734, US6376936, and US3785230. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claims 27, 28, 84, 85, 102, 103, 111, and 112 all address the case where the sensor element defines the opening in part. This limitation was well known in the art as evidenced by at least US6922153, SawStop Finger, DE4121330, EP1442834, US4162042, US5318229, US2003/0090224, GB1132708, JP09-075763, US4518958, US4753323, US5621290, US2004/0017294, JP10-048344, US4117752, US5081406, US5921367, Qprox, US2002/0017183, US6724324, US2004/0008122, US6376936, US6922153, SawStop Finger, DE4121330, EP1442834, US4162042, US5318229, US2003/0090224, GB1132708, JP09-075763, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claims 24, 81, 99, and 108 include the limitation that the sensor extends the length of the opening. This was well known in the prior art as evidenced, at least, by US6922153, Tablesaw Blade, SawStop Finger, DE4121330, EP1442834, US4162042, US4683381, US5318229, US2003/0090224, GB1132708, JP09-075763, US4518958, US4753323, US5621290, US2004/0017294, JP10-048344, US4117752, US5081406, US5921367, Qprox, US2002/0017183, US6724324, US2004/0008122, JP57-76734, US6376936, US6922153, Tablesaw Blade, SawStop Finger, DE4121330, EP1442834, US4162042, US4683381, US5318229, US2003/0090224, GB1132708, JP09-075763, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claims 22 and 97 include the limitation of a long narrow opening. This limitation was well known in the prior art as shown in US6922153, EP1195202, US6113017, Tablesaw Blade, DE19703575, SawStop Finger, DE4121330, EP1442834, US5318229, US2003/0090224, GB1132708, JP09-075763, US4518958, US5621290, US2004/0017294, JP10-048344,

US4117752, US5081406, US5921367, Qprox, US2002/0017183, US6079645, US6724324, US2004/0008122, JP57-76734, US5897065, US5988542, US6116528, US6376936, US6922153, EP1195202, US6113017, Tablesaw Blade, DE19703575, SawStop Finger, DE4121330, EP1442834, US5318229, US2003/0090224, GB1132708, JP09-075763, and US4518958. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claims 23, 80, 98, and 107 include the limitation of a sensor element attached to at least one wall of the opening. This limitation was also known in the prior art as evidenced by at least US3785230, US6922153, US2004/0181951, JP05280243, DE4121330, EP1442834, US4162042, US4683381, US5318229, GB1132708, JP09-075763, US4518958, US4753323, US5621290, US2004/0017294, JP10-048344, US5081406, US5921367, Qprox, US6724324, US2004/0008122, JP57-76734, US6376936, US3785230, US6922153, US2004/0181951, JP05280243, DE4121330, EP1442834, US4162042, US4683381, US5318229, GB1132708, JP09-075763, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claim 5 includes the limitation of the proximity sensor being a capacitive sensor. The prior art was replete with capacitive safety sensors as shown in US4323829, US3785230, US6922153, US2004/0181951, JP05280243, JP07157012, Collision Avoidance, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, US3111800, US4162042, US4683381, US2003/0090224, A Capcitance Based, Capacitive Detection, GB1132708, Guard Interlocking, US4518958, US4753323, US5621290, US2004/0017294, WO9637350, GB2199962, JP10-048344, OSHA Hazard, US4117752, US5081406, US5921367, Qprox, Theory and Application, US2002/0017183, US5436613, US6724324, US2004/0008122,

US6376936, US4323829, US3785230, US6922153, US2004/0181951, JP05280243, JP07157012, Collision Avoidance, Tablesaw Blade, US2003/0202851, SawStop Finger, Applying Electric, EP1442834, US3111800, US4162042, US4683381, US2003/0090224, A Capcitance Based, Capacitive Detection, GB1132708, Guard Interlocking, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claim 7 includes the limitation of an electroconductive sensor element being a thin metal member on the housing along the opening. This was known in the prior art in at least US6922153, Tablesaw Blade, EP1442834, US4162042, US4683381, US5318229, A Capcitance Based, GB1132708, JP09-075763, US4518958, US4753323, US5621290, US2004/0017294, JP10-048344, US5081406, US5921367, Qprox, US6724324, US2004/0008122, US6376936, US6922153, Tablesaw Blade, EP1442834, US4162042, US4683381, US5318229, A Capcitance Based, GB1132708, JP09-075763, US4518958, and US4753323. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claim 12 includes the limitation that the shredder is embedded in the housing. This was known in the prior art in at least US6113017. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claim 13 includes the limitation that the metal member is adhered to the housing near the opening. This was known in the prior art in at least US3111800. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation

is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

Claim 14 includes the limitation that the metal member is metal tape. This was known in the prior art as in US6922153. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. These claims are obvious.

C. L. R.3-3(c); For the '276 patent, a chart identifying where specifically in each alleged item of prior art each element of each asserted claim is found, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function.

Pursuant to L.R. 3-3(c), Exhibit A is provided as an attachment for anticipatory prior art. Exhibit B is provided as an attachment for prior art rendering the claims obvious.

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D. L. R.3-3(d); For the '276 patent, any grounds of invalidity based on indefiniteness under 35 U.S.C. § 112(2) or enablement or written description under 35 U.S.C. § 112(1) of any of the asserted claims.

Aurora presents Exhibit C, attached hereto, which specifically identifies where claim elements of the asserted claims of the '276 patent are indefinite, lack enablement, and/or lack written description under 35 U.S.C. § 112.

Aurora reserves the right to modify these charts by adding additional assertions of indefiniteness, lack of enablement, and/or lack of written description to the extent such modification is appropriate in light of any additional information gained through ongoing investigations or through discovery or in light of arguments made or positions taken by Fellowes.

Aurora notes that these are initial invalidity contentions and, as such, Aurora is not limited to only the arguments made in said Exhibit.

II. THE '559 PATENT

A. Patent L.R. 3-3(a) The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher.

Pursuant to Patent L.R. 3-3(a), Aurora identifies the following prior art references that anticipate and/or render obvious the asserted claims of the '559 patent.

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272. 4,893,027, US, January 1990

273. 4,900,881, US, February 1990

274. 4,934,494, US, June 1990

275. 4,947,009, US, August 1990

276. 4,970,355, US, November 1990

277. 4,978,817, US, December 1990

278. 4,982,058, US, January 1991

279. 5,037,033, US, August 1991

280. 5,044,270, US, September 1991

281. 5,140,235, US, August 1992

282. 5,167,374, US, December 1992

283. 5,236,138, US, August 1993

284. 5,310,259, US, May 1994

285. 5,346,342, US, September 1994

286. 5,486,669, US, January 1996

287. 5,561,279, US, October 1996

288. 5,577,600, US, November 1996

289. 5,638,261, US, June 1997

290. 5,638,945, US, June 1997

291. 5,662,280, US, September 1997

292. 5,775,605, US, July 1998

293. 5,969,312, US, October 1999

294. 6,057,518, US, May 2000

295. 6,082,643, US, July 2000

296. 6,091,035, US, July 2000

297. 6,153,838, US, November 2000

298. 6,212,052, US, April 2001

299. 6,288,350, US, September 2001

300. 6,340,124, US, January 2002

301. 6,340,802, US, January 2002

302. 6,375,102, US, April 2002

303. 6,538,218, US, March 2003

304. 6,629,654, US, October 2003

305. 6,753,490, US, June 2004

306. 6,759,609, US, July 2004

307. 6,861,598, US, March 2005

308. RE030270, US, May 1980

309. RE036250, US, July 1999

310. 2001/0030114, US, October 2001

311. 84003650, WO, September 1984

312. 91001860, WO, February 1991

313. 93006570, WO, April 1993

314. 94013441, WO, June 1994

315. 96013362, WO, June 1996

316. 98052728, WO, November 1998

317. 00048283, WO, August 2000

318. 0130655, WO, May 2001

319. 01/26064, WO, April 2001

B. L. R.3-3(b); Whether each item of prior art anticipates each asserted claim or renders it obvious as to the ’559 patent. If a combination of items of prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified.

Pursuant to L. R.3-3(b), Aurora identifies each item of anticipatory prior art as to each asserted claim. Aurora takes a broad reading of the scope of the claim limitations only for purposes of this submittal and does not waive, disclaim, or exclude a narrower construction of the terms in the future. Also, Aurora identifies each item of obviousness prior art and any combination of prior art references that would render a claim obvious as to each such claim and the motivation to combine such references.

Aurora’s application of L. R.3-3(b) is in light of the recent Supreme Court decision in the landmark obviousness case of KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1742 (U.S. 2007) (“KSR”) and subsequent Federal Circuit rulings.

KSR reaffirmed the obviousness investigation for not only the combination of prior art patents and printed publications, but also the general precepts of the obviousness inquiry. No longer is a rigid approach of the teaching, suggestion, or motivation to combine test the exclusive standard for sustaining obviousness as it relates to the combination of multiple prior art references.

Obviousness is determined from the perspective of a person of ordinary skill in the art at the time of the invention. Such a person is deemed to have a working knowledge of the field. This would extend to prior art patents as identified in these infringement contentions.

Such a person would understand the simplicity and desirability of including a proximity sensor with a paper shredder.

A person of ordinary skill in the art is a person of ordinary creativity, not an automaton, and would see the benefits of increasing the safety of a product. This person would also recognize the design incentives and market driven forces associated with improving the safety of a paper shredder

A person of such skill would also be familiar with proximity sensors such as capacitive sensors.

1. Anticipatory prior art as to the '559 patent.

The following table identifies patents each of which anticipates every limitation, either expressly or inherently, of claims 1 and 13-16 of the original patent and claims 39-46, 50, and 51 of the re-examined '559 patent:

US6,079,645	US4,545,537			

Aurora reserves the right to supplement and amend these contentions based on further investigation, construction of the claims by the Court, and modification of Fellowes' contentions.

2. References that render the claims of the '559 patent obvious.

The following table identifies patents the combination of which renders claims 1 and 13-16 of the original patent and claims 39-46, 50, and 51 of the re-examined '559 patent obvious:

US1,525,590	US1,825,223	US3,312,794	US3,619,537
US3,724,766	US3,764,819	US3,829,850	US3,860,180
US3,869,238	US3,947,734	US3,991,944	US4,018,392
US4,044,532	US4,068,805	US4,082,232	US4,125,228
US4,172,400	US4,187,420	US4,194,698	US4,352,980
US4,420,863	US4,471,915	US4,562,971	US4,673,136
US4,683,381	US4,693,428	US4,713,509	US4,767,895

US4,784,601	US4,784,602	US4,821,967	US4,839,533
US4,859,172	US4,882,458	US4,910,365	US4,944,462
US5,045,658	US5,065,947	US5,081,406	US5,100,067
WO00048283	US5,135,178	US5,166,679	US5,171,143
US5,186,398	US5,207,392	US5,268,553	US5,275,342
US5,279,467	US5,295,633	US5,345,138	US5,356,286
US5,397,890	US5,407,346	US5,421,720	US5,432,308
US5,460,516	US5,494,229	US5,568,895	US5,636,801
US5,655,725	US5,676,321	US5,680,999	US5,704,776
US5,724,737	USD393,607	US5,775,605	US5,788,476
US5,829,697	US5,829,963	US5,850,342	US5,868,242
US5,884,855	US RE 36,250	US D412,716	US5,942,975
US5,988,542	US6,065,696	US6,079,645	US6,082,644
US6,089,482	US6,247,828	US D444,809	US6,260,780
US6,265,682	US6,274,828	US6,308,904	US6,325,909
US6,376,939	US6,418,004	US6,550,701	US6,575,285
US D 481,416	US6,655,943	US6,676,050	US6,676,460
US6,724,324	US D494,607	US6,775,018	US6,779,747
US D502,713	US D502,714	US 6,962,301	US6,966,513
US6,967,648	US6,979,813	US6,981,667	US7,040,559
US7,044,410	US7,048,218	US7,150,422	US2004/0008122
US2004/0194594	US2004/0226800	US2005/0132859	US2005/0157203
US2005/0166736	US2005/0218250	US2005/0274834	2005/0274836
US2006/0091247	US2006/0157600	US2006/0169619	US2006/0249609
DE32 08 676	DE33 13 232	DE 32 47 299	DE35 40 896
DE78 18 838	DE37 33 413	DE86 19 856.4	DE40 14 669

DE41 21 330	DE195 19 858	DE199 60 267	EP 0 511 535
EP 0 736 886	EP 0 855 221	EP 1 195 202	EP 1 069 954
GB761607	GB2096919	GB2203063	GB2234690
JP52-11691	JP57-76734	JP04-157093	JP04-180852
JP4-110143	JP5-68906	JP5-123593	JP6-277548
JP7-136539	JP7-155629	JP7-299377	JP7-328469
JP8-1026	JP9-262491	JP10-34003	JP11-216383
JP2000-0346288	JP2004-321993	TW306323	TW00139305
TW282696	TW84317868A01	WO98/48937	WO99/52638
WO02/060588	WO200/070553	CN99208833	CN99213588.5
DE222515	US6,877,410	US2002/0066346	US6,834,730
US6,536,536	US7,225,712	US7,171,879	US7,077,039
WO0130655	US7,228,772	US7,290,472	US7,210,383
US7,197,969	US7,137,326	US6,857,345	US6,826,988
US2005/0039822	US2004/0173430	US2003/0090224	US2003/0058121
US2003/0037651	US2002/0069734	US2002/0059855	US2002/0059854
US2002/0056350	US2002/0020263	US2002/0020262	US2002/0017183
US2002/0017178	US2002/0017176	US6,997,090	US2002/0017184
US2004/0163514	US7,284,467	US2002/0017336	US2002/0020261
US2002/0017181	US2003/0005588	US6,813,983	US2002/0059853
US7,231,856	US2002/0190581	US2003/0019341	US2002/0020265
US2002/0017179	US2003/0015253	US2004/0040426	US7,055,417
US2002/0056348	US2002/0056349	US2003/0056853	US6,880,440
US6,920,814	US6,922,153	US6,945,148	US6,945,149
US6,957,601	US6,994,004	US7,000,514	US7,024,975
US7,093,668	US7,098,800	US7,100,483	US7,121,358

US7,308,843	US7,328,752	US2002/0170399	US2002/0170400
US2003/0002942	US2005/0039586	US3,629,530	US3,728,501
US3,769,473	US3,780,246	US3,873,796	US3,952,239
US3,953,696	US3,971,906	US4,002,874	US4,016,490
US4,062,282	US4,107,484	US4,135,068	US4,180,716
US4,187,420	US4,276,459	US4,277,666	US4,349,814
US4,423,844	US4,449,062	US4,471,915	US4,510,860
US4,549,097	US4,598,182	US4,619,407	US4,664,317
US4,706,895	US4,709,197	US4,751,603	US4,771,359
US4,824,029	US4,893,027	US4,900,881	US4,934,494
US4,947,009	US4,970,355	US4,978,817	US4,982,058
US5,037,033	US5,044,270	US5,140,235	US5,167,374
US5,236,138	US5,310,259	US5,346,342	US5,486,669
US5,561,279	US5,577,600	US5,638,261	US5,638,945
US5,662,280	US5,775,605	US5,969,312	US6,057,518
US6,082,643	US6,091,035	US6,153,838	US6,212,052
US6,288,350	US6,340,124	US6,340,802	US6,375,102
US6,538,218	US6,629,654	US6,753,490	US6,759,609
US6,861,598	US RE030270	US RE036250	US2001/0030114
WO01/26064	WO84003650	WO91001860	WO93006570
WO94013441	WO96013362	WO98052728	

Any of the patents identified supra that anticipate claim 1 of the ‘559 patent provide a roadmap as to the elements a person of skill in the art would have known to use in developing the invention of a paper shredder having a proximity sensor. Such anticipating patents also provide the motivation to combine the elements identified infra as to any patents containing such elements. Motivation is also identified as explained in the KSR decision.

Each of the dependent claims of the ‘559 patent incorporate nothing more than elements known in the prior art performing their established function to achieve a predictable result. Under KSR such a combination of elements is obvious.

Claim 1 is obvious for, at least, the combination of United States Patent No. US 4187420, US 4068805, US 3873796, and US 6,536,536, 3:12-13. A person of ordinary skill in the art would have recognized that using a switch that had a locking position in combination with a paper shredder would have been an obvious choice of prior art switches that performed nothing more than a known function in a predictable manner.

Claim 13 adds the limitation of a status indicator for visually indicating whether the switch lock is in the locking position. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 14 adds the limitation of the housing has an upwardly facing top wall, and the throat opening is formed in the top wall. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 15 adds the limitation of manually engageable portion of the on/off switch is mounted for sliding movement. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Applying this limitation is nothing more than exercising a design choice void of any novelty. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 16 adds the limitation of the top wall has an open, upwardly facing recess and the manually engageable portion of the on/off switch is in the recess. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 39 adds the limitation of the on/off switch includes a switch module mounted within the housing, the manually engageable portion and the switch module of the on/off switch being connected directly together through an opening in an outer wall of the housing. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 40 adds the limitation of the manually engageable portion of the on/off switch is mounted on an outer wall of the housing for movement between the on and off positions of the on/off switch. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 41 adds the limitation of the manually engageable portion of the on/off switch is mounted to slide between the on and off positions thereof in a 1st direction, and the switch lock is mounted for movement between the locking and releasing positions thereof in a 2nd direction perpendicular to the first direction. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon

prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 42 adds the limitation of Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 43 adds the limitation of the manually engageable portion of the switch lock is mounted for movement in a 1st direction between the locking and releasing positions. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 44 adds the limitation of the manually engageable portion of the on/off switch is mounted for movement in a second direction between the on and off positions of the on/off switch. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 45 adds the limitation that the 1st and 2nd directions for movements of the manually engageable portions are perpendicular to one another. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 46 adds the limitation that the manually engageable portion of the on/off switch is mounted on a top wall of the housing. Applying this limitation is nothing more than exercising a

design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 50 adds the limitation that the switch lock includes no position in which it locks the switch in the on position. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

Claim 51 adds the limitation that when in the on position, the manually engageable portion of the on/off switch naturally stays in the on position. Applying this limitation is nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate this limitation. Further, adding this limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claim is obvious.

The prior art was replete with instances of manual switches having a stop function being used to make potentially dangerous equipment safer. The implementation of such a switch known in the prior art to a paper shredder is merely applying an element according to its known function to potentially dangerous device – a paper shredder. This is obvious in light of KSR.

C. L. R.3-3(c); For the '559 patent, a chart identifying where specifically in each alleged item of prior art each element of each asserted claim is found, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function.

Pursuant to L.R. 3-3(c), Exhibit D is provided as an attachment identifying each element of the claims being anticipated by the prior art.

Pursuant to L.R. 3-3(c), Exhibit E is provided as an attachment identifying each element of the claims being rendered obvious by the prior art.

D. L. R.3-3(d); For the '559 patent, any grounds of invalidity based on indefiniteness under 35 U.S.C. § 112(2) or enablement or written description under 35 U.S.C. § 112(1) of any of the asserted claims.

Aurora presents Exhibit F, attached hereto, which specifically identifies where claim elements of the asserted claims of the '559 patent are indefinite, lack enablement, and/or lack written description under 35 U.S.C. § 112.

Aurora reserves the right to modify these charts by adding additional assertions of indefiniteness, lack of enablement, and/or lack of written description to the extent such modification is appropriate in light of any additional information gained through ongoing investigations or through discovery or in light of arguments made or positions taken by Fellowes. Aurora notes that these are initial invalidity contentions and, as such, Aurora is not limited to only the arguments made in said Exhibit.

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III. THE '096 PATENT

A. Patent L.R. 3-3(a) The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher.

Pursuant to Patent L.R. 3-3(a), Aurora identifies the following prior art references that anticipate and/or render obvious the asserted claims of the '096 patent.

1. 1,525,590, US, February, 1925
2. 1,825,223, US, September 1931
3. 3,312,794, US, April, 1967
4. 3,619,537, US, November, 1971

5. 3,724,766, US, April, 1973
6. 3,764,819, US, October 1973
7. 3,829,850, US, August 1974
8. 3,860,180, US, January 1975
9. 3,869,238, US, March, 1975
10. 3,947,734, US, March, 1976
11. 3,991,944, US, November 1976
12. 4,018,392, US, April, 1977
13. 4,044,532, US, August, 1977
14. 4,068,805, US, January, 1978
15. 4,082,232, US, April 1978
16. 4,125,228, US, November, 1978
17. 4,172,400, US, October, 1979
18. 4,187,420, US, February, 1980
19. 4,194,698, US, March, 1980
20. 4,352,980, US, October, 1982
21. 4,420,863, US, December, 1983
22. 4,471,915, US, September, 1984
23. 4,562,971, US, January, 1986
24. 4,673,136, US, June, 1987
25. 4,683,381, US, July, 1987
26. 4,693,428, US, September, 1987
27. 4,713,509, US, December, 1987
28. 4,767,895, US, August, 1988
29. 4,784,601, US, November, 1988
30. 4,784,602, US, November, 1988
31. 4,821,967, US, April, 1989

32. 4,839,533, US, June, 1989

33. 4,859,172, US, August, 1989

34. 4,882,458, US, November, 1989

35. 4,910,365, March, 1990

36. 4,944,462, US, July, 1990

37. 5,045,648, US, September, 1991

38. 5,065,947, US, November, 1991

39. 5,081,406, US, January, 1992

40. 5,100,067, US, March, 1992

41. 222515, DE, May, 1910

42. 5,135,178, US, August 1992

43. 5,166,679, US, November 1992

44. 5,171,143, US, December 1992

45. 5,186,398, US, February 1993

46. 5,207,392, US, May 1993

47. 5,268,553, US, December 1993

48. 5,275,342, US, January 1994

49. 5,279,467, US January 1994

50. 5,295,633, US, March 1994

51. 5,345,138, US, September 1994

52. 5,356,286, US, October 1994

53. 5,397,890, US, March 1995

54. 5,407,346, US, April 1995

55. 5,421,720, US, June 1995

56. 5,432,308, US, July 1995

57. 5,460,516, US, October 1995

58. 5,494,229, US, February 1996

59. 5,568,895, US, October 1996

60. 5,636,801, US, June 1997

61. 5,655,725, US, August 1997

62. 5,676,321, US, October 1997

63. 5,680,999, US, October 1997

64. 5,704,776, US, January 1998

65. 5,724,737, US, March 1998

66. D393,607, US, April 1998

67. 5,775,605, US, July 1998

68. 5,788,476, US, August 1998

69. 5, 829,697, US November 1998

70. 5,829,963, US, November 1998

71. 5,850,342, US, December 1998

72. 5,868,242, US, February 1999

73. 5,884,855, US, March 1999

74. RE36,250, US, July 1999

75. D412,716, US, August 1999

76. 5,942,975, US, August 1999

77. 5,988,542, US, November 1999

78. 6,065,696, US, May 2000

79. 6,079,645, US, June 2000

80. 6,082,644, US, July 2000

81. 6,089,482, US, July 2000

82. 6,247,828, US, June 2001

83. D444,809, US, July 2001

84. 6,260,780, US, July 2001

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87. 6,308,904, US, October 2001

88. 6,325,309, US, December 2001

89. 6,376,939, US, April 2002

90. 6,418,004, US, July 2002

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92. 6,575,285, US, June 2003

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95. 6,676,050, US, January 2004

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97. 6,724,324, US, April 2004

98. D494,607, US, August 2004

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101. D502,713, US, March 2005

102. D502,714, US, March 2005

103. 6,962,301, US, November 2005

104. 6,966,513, US, November 2005

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106. 6,979,813, US, December 2005

107. 6,981,667, US, January 2006

108. 7,040,559, US, May 2006

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110. 7,048,218, US, May 2006

111. 7,150,422, US, December 2006

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114. 2004/0226800, US, November 2004

115. 2005/0132859, US, June 2005

116. 2005/0157203, US, July 2005

117. 2005/0166736, US, August 2005

118. 2005/0218250, US, October 2005

119. 2005/0274834, US, December 2005

120. 2005/0274836, US, December 2005

121. 2006/0091247, US, May 2006

122. 2006/0157600, US, July 2006

123. 2006/0169619, US, August 2006

124. 2006/0249609, US, November 2006

125. 32 08 676, DE, October 1982

126. 32 47 299, DE, July 1984

127. 33 13 232, DE, October 1984

128. 35 40 896, DE, May 1987

129. 78 18 838, DE, June 1978

130. 37 33 413, DE, April 1988

131. 86 19 856.4, DE, October 1988

132. 40 14 669, DE, November 1991

133. 41 21 330, DE, January 1993

134. 195 19 858, DE, December 1996

135. 199 60 267, DE, July 2000

136. 0 511 535, EP, April 1992

137. 0 736 886, EP, March 1996

138. 0 855 221, EP, July 1998

139. 1 195 202, EP, September 2001

140. 1 069 954, EP, September 2002

141. 761607, GB, June 1954

142. 2096919, GB, October 1982

143. 2203063, GB, October 1988

144. 2234690, GB, February 1991

145. 52-11691, JP, April 1977

146. 57-76734, JP, May 1982

147. 04-157093, JP, May 1992

148. 04-180852, JP, June 1992

149. 4-110143, JP, September 1992

150. 5-68906, JP, March 1993

151. 5-123593, JP, May 1993

152. 6-277548, JP, October 1994

153. 7-136539, JP, May 1995

154. 7-155629, JP, June 1995

155. 7-299377, JP, November 1995

156. 7-328469, JP, December 1995

157. 8-1026, JP, January 1996

158. 9-262491, JP, October 1997

159. 10-34003, JP, February 1998

160. 11-216383, JP, August 1999

161. 2000-0346288, JP, December 2000

162. 2004-321993, JP, November 2004

163. 306323, TW, October 1985

164. 00139305, TW August 1990

165. 282696, TW, August 1996

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188. 2004/0173430, US, September, 2004

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203. 2004/0163514, US, August, 2004

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249. 4,002,874, US, January 1977

250. 4,016,490, US, April 1977

251. 4,062,282, US, December 1977

252. 4,107,484, US, August 1978

253. 4,135,068, US January 1979

254. 4,180,716, US, December 1979

255. 4,187,420, US, May 1980

256. 4,276,459, US, June1981

257. 4,277,666, US, July 1981

258. 4,349,814, US, September 1982

259. 4,423,844, US, January 1984

260. 4,449,062, US, May 1984

261. 4,471,915, US, September 1984

262. 4,510,860, US, April 1985

263. 4,549,097, US, October 1985

264. 4,598,182, US, July 1986

265. 4,619,407, US, October 1986

266. 4,664,317, US, May 1987

267. 4,706,895, US, November 1987

268. 4,709,197, US, November 1987

269. 4,751,603, US, June 1988

270. 4,771,359, US, September 1988

271. 4,824,029, US, April 1989

272. 4,893,027, US, January 1990

273. 4,900,881, US, February 1990

274. 4,934,494, US, June 1990

275. 4,947,009, US, August 1990

276. 4,970,355, US, November 1990

277. 4,978,817, US, December 1990

278. 4,982,058, US, January 1991

279. 5,037,033, US, August 1991

280. 5,044,270, US, September 1991

281. 5,140,235, US, August 1992

282. 5,167,374, US, December 1992

283. 5,236,138, US, August 1993

284. 5,310,259, US, May 1994

285. 5,346,342, US, September 1994

286. 5,486,669, US, January 1996

287. 5,561,279, US, October 1996

288. 5,577,600, US, November 1996

289. 5,638,261, US, June 1997

290. 5,638,945, US, June 1997

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292. 5,775,605, US, July 1998

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294. 6,057,518, US, May 2000

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314. 94013441, WO, June 1994

315. 96013362, WO, June 1996

316. 98052728, WO, November 1998

317. 00048283, WO, August 2000

318. 0130655, WO, May 2001

319. 01/26064, WO, April 2001

B. L. R.3-3(b); Whether each item of prior art anticipates each asserted claim or renders it obvious as to the '096 patent. If a combination of items of prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified.

Pursuant to L. R.3-3(b), Aurora identifies each item of anticipatory prior art as to each asserted claim. Aurora takes a broad reading of the scope of the claim limitations only for purposes of this submittal and does not waive, disclaim, or exclude a narrower construction of the terms in the future. Also, Aurora identifies each item of obviousness prior art and any

combination of prior art references that would render a claim obvious as to each such claim and the motivation to combine such references.

Aurora's application of L. R.3-3(b) is in light of the recent Supreme Court decision in the landmark obviousness case of KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1742 (U.S. 2007) ("KSR") and subsequent Federal Circuit rulings.

KSR reaffirmed the obviousness investigation for not only the combination of prior art patents and printed publications, but also the general precepts of the obviousness inquiry. No longer is a rigid approach of the teaching, suggestion, or motivation to combine test the exclusive standard for sustaining obviousness as it relates to the combination of multiple prior art references.

Obviousness is determined from the perspective of a person of ordinary skill in the art at the time of the invention. Such a person is deemed to have a working knowledge of the field. This would extend to prior art patents as identified in these infringement contentions.

Such a person would understand the simplicity and desirability of including a proximity sensor with a paper shredder.

A person of ordinary skill in the art is a person of ordinary creativity, not an automaton, and would see the benefits of increasing the safety of a product. This person would also recognize the design incentives and market driven forces associated with improving the safety of a paper shredder

A person of such skill would also be familiar with proximity sensors such as capacitive sensors.

1. Anticipatory prior art as to the '096 patent.

The following table identifies patents each of which anticipates every limitation, either expressly or inherently, of claims 1, 11, 14, 20, 27, 34, 40, 46, 48, 51, 53, 55, and 62 of the '096 patent:

US6,079,645	US4,545,537			

Aurora reserves the right to supplement and amend these contentions based on further investigation, construction of the claims by the Court, and modification of Fellowes' contentions.

2. References that render the claims of the '096 patent obvious.

The following table identifies patents the combination of which renders claims 1, 11, 14, 20, 27, 34, 40, 46, 48, 51, 53, 55, and 62 of the '096 patent obvious:

US1,525,590	US1,825,223	US3,312,794	US3,619,537
US3,724,766	US3,764,819	US3,829,850	US3,860,180
US3,869,238	US3,947,734	US3,991,944	US4,018,392
US4,044,532	US4,068,805	US4,082,232	US4,125,228
US4,172,400	US4,187,420	US4,194,698	US4,352,980
US4,420,863	US4,471,915	US4,562,971	US4,673,136
US4,683,381	US4,693,428	US4,713,509	US4,767,895
US4,784,601	US4,784,602	US4,821,967	US4,839,533
US4,859,172	US4,882,458	US4,910,365	US4,944,462
US5,045,658	US5,065,947	US5,081,406	US5,100,067
WO00048283	US5,135,178	US5,166,679	US5,171,143
US5,186,398	US5,207,392	US5,268,553	US5,275,342
US5,279,467	US5,295,633	US5,345,138	US5,356,286
US5,397,890	US5,407,346	US5,421,720	US5,432,308
US5,460,516	US5,494,229	US5,568,895	US5,636,801
US5,655,725	US5,676,321	US5,680,999	US5,704,776
US5,724,737	USD393,607	US5,775,605	US5,788,476
US5,829,697	US5,829,963	US5,850,342	US5,868,242
US5,884,855	US RE 36,250	US D412,716	US5,942,975
US5,988,542	US6,065,696	US6,079,645	US6,082,644

US6,089,482	US6,247,828	US D444,809	US6,260,780
US6,265,682	US6,274,828	US6,308,904	US6,325,909
US6,376,939	US6,418,004	US6,550,701	US6,575,285
US D 481,416	US6,655,943	US6,676,050	US6,676,460
US6,724,324	US D494,607	US6,775,018	US6,779,747
US D502,713	US D502,714	US 6,962,301	US6,966,513
US6,967,648	US6,979,813	US6,981,667	US7,040,559
US7,044,410	US7,048,218	US7,150,422	US2004/0008122
US2004/0194594	US2004/0226800	US2005/0132859	US2005/0157203
US2005/0166736	US2005/0218250	US2005/0274834	2005/0274836
US2006/0091247	US2006/0157600	US2006/0169619	US2006/0249609
DE32 08 676	DE33 13 232	DE 32 47 299	DE35 40 896
DE78 18 838	DE37 33 413	DE86 19 856.4	DE40 14 669
DE41 21 330	DE195 19 858	DE199 60 267	EP 0 511 535
EP 0 736 886	EP 0 855 221	EP 1 195 202	EP 1 069 954
GB761607	GB2096919	GB2203063	GB2234690
JP52-11691	JP57-76734	JP04-157093	JP04-180852
JP4-110143	JP5-68906	JP5-123593	JP6-277548
JP7-136539	JP7-155629	JP7-299377	JP7-328469
JP8-1026	JP9-262491	JP10-34003	JP11-216383
JP2000-0346288	JP2004-321993	TW306323	TW00139305
TW282696	TW84317868A01	WO98/48937	WO99/52638
WO02/060588	WO200/070553	CN99208833	CN99213588.5
DE222515	US6,877,410	US2002/0066346	US6,834,730
US6,536,536	US7,225,712	US7,171,879	US7,077,039
WO0130655	US7,228,772	US7,290,472	US7,210,383

US7,197,969	US7,137,326	US6,857,345	US6,826,988
US2005/0039822	US2004/0173430	US2003/0090224	US2003/0058121
US2003/0037651	US2002/0069734	US2002/0059855	US2002/0059854
US2002/0056350	US2002/0020263	US2002/0020262	US2002/0017183
US2002/0017178	US2002/0017176	US6,997,090	US2002/0017184
US2004/0163514	US7,284,467	US2002/0017336	US2002/0020261
US2002/0017181	US2003/0005588	US6,813,983	US2002/0059853
US7,231,856	US2002/0190581	US2003/0019341	US2002/0020265
US2002/0017179	US2003/0015253	US2004/0040426	US7,055,417
US2002/0056348	US2002/0056349	US2003/0056853	US6,880,440
US6,920,814	US6,922,153	US6,945,148	US6,945,149
US6,957,601	US6,994,004	US7,000,514	US7,024,975
US7,093,668	US7,098,800	US7,100,483	US7,121,358
US7,308,843	US7,328,752	US2002/0170399	US2002/0170400
US2003/0002942	US2005/0039586	US3,629,530	US3,728,501
US3,769,473	US3,780,246	US3,873,796	US3,952,239
US3,953,696	US3,971,906	US4,002,874	US4,016,490
US4,062,282	US4,107,484	US4,135,068	US4,180,716
US4,187,420	US4,276,459	US4,277,666	US4,349,814
US4,423,844	US4,449,062	US4,471,915	US4,510,860
US4,549,097	US4,598,182	US4,619,407	US4,664,317
US4,706,895	US4,709,197	US4,751,603	US4,771,359
US4,824,029	US4,893,027	US4,900,881	US4,934,494
US4,947,009	US4,970,355	US4,978,817	US4,982,058
US5,037,033	US5,044,270	US5,140,235	US5,167,374
US5,236,138	US5,310,259	US5,346,342	US5,486,669

US5,561,279	US5,577,600	US5,638,261	US5,638,945
US5,662,280	US5,775,605	US5,969,312	US6,057,518
US6,082,643	US6,091,035	US6,153,838	US6,212,052
US6,288,350	US6,340,124	US6,340,802	US6,375,102
US6,538,218	US6,629,654	US6,753,490	US6,759,609
US6,861,598	US RE030270	US RE036250	US2001/0030114
WO01/26064	WO84003650	WO91001860	WO93006570
WO94013441	WO96013362	WO98052728	

Any of the patents identified supra that anticipate claim 1 of the ‘096 patent provide a roadmap as to the elements a person of skill in the art would have known to use in developing the invention of a paper shredder having a proximity sensor. Such anticipating patents also provide the motivation to combine the elements identified infra as to any patents containing such elements. Motivation is also identified as explained in the KSR decision.

Each of the dependent claims of the ‘096 patent incorporate nothing more than elements known in the prior art performing their established function to achieve a predictable result. Under KSR such a combination of elements is obvious.

Claim 1 is obvious for, at least, the combination of United States Patent No. US6,079,645, US5,561,279, US5,577,600, and US5,638,261. A person of ordinary skill in the art would have recognized that using a switch that had a locking position in combination with a paper shredder would have been an obvious choice of prior art switches that performed nothing more than a known function in a predictable manner.

Claims 11, 14, 20, 27, 34, 40, 46, 48, 51, 53, 55, and 62 include limitations that are nothing more than exercising a design choice void of any novelty. Exhibit E identifies specific instances in the prior art that incorporate such limitations. Further, adding these limitation is nothing more than relying upon prior art elements to do nothing more than what they were designed to do to arrive at a predictable result. The claims are obvious.

The prior art was replete with instances of manual switches having a stop function being used to make potentially dangerous equipment safer. The implementation of such a switch known in the prior art to a paper shredder is merely applying an element according to its known function to potentially dangerous device – a paper shredder. This is obvious in light of KSR.

C. L. R.3-3(c); For the '096 patent, a chart identifying where specifically in each alleged item of prior art each element of each asserted claim is found, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function.

Pursuant to L.R. 3-3(c), Exhibit G is provided as an attachment identifying each element of the claims being anticipated by the prior art.

Pursuant to L.R. 3-3(c), Exhibit H is provided as an attachment identifying each element of the claims being rendered obvious by the prior art.

D. L. R.3-3(d); For the '096 patent, any grounds of invalidity based on indefiniteness under 35 U.S.C. § 112(2) or enablement or written description under 35 U.S.C. § 112(1) of any of the asserted claims.

Aurora presents Exhibit I, attached hereto, which specifically identifies where claim elements of the asserted claims of the '096 patent are indefinite, lack enablement, and/or lack written description under 35 U.S.C. § 112.

Aurora reserves the right to modify these charts by adding additional assertions of indefiniteness, lack of enablement, and/or lack of written description to the extent such modification is appropriate in light of any additional information gained through ongoing investigations or through discovery or in light of arguments made or positions taken by Fellowes. Aurora notes that these are initial invalidity contentions and, as such, Aurora is not limited to only the arguments made in said Exhibit.

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